

SEALED

UNITED STATES MAGISTRATE COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FILED
OCT 03 2018
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY CS
DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

v.

Criminal No.

ERNESTO GUTIERREZ-MARTINEZ (1),

Defendant.

SA 18 CR 0722 OG

GOVERNMENT'S MOTION TO DETAIN DEFENDANT
AND MOTION FOR CONTINUANCE

TO THE UNITED STATES MAGISTRATE JUDGE:

The United States of America, by and through the United States Attorney for the Western District of Texas, and pursuant to Title 18 U.S.C. 3142, files this Motion to Detain Defendant and Motion for Continuance and moves for the detention of the Defendant without bond. No condition or combination of conditions will reasonably assure the Defendant's appearance and/or the safety of others, for the following reasons:

I. SEC. 3142(f); THREE-DAY CONTINUANCE

- ☐ The Defendant is charged with a "crime of violence," as that term is defined in 18 USC 3156(a)(4), a human trafficking offense under 18 USC 1591, or a terrorism offense under 18 USC 2332b(g)(5)(B), for which a maximum term of imprisonment of ten years or more is prescribed;
- ☐ The Defendant is charged with an offense for which the maximum sentence is life imprisonment or death;
- ☐ The Defendant is charged with an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 USC 801 et seq.), or the Controlled Substances Import and Export Act (21 USC 951 et. seq.);
- ☐ The Defendant is charged with a felony offense and has been convicted of two or more prior felonies, each of which is a crime of violence, (as defined in 18 USC 3156(a)(4)), a violation of 18 USC 1591, a violation of 18 USC 2332b(g)(5)(B), or a violation of the Controlled Substances Act (21 USC 801 et seq.) or the Controlled Substances Import and Export Act (21 USC 951 et. seq.), or state offenses which had they been charged in federal court would have been offenses falling within these categories, for which the prescribed punishment is ten years or more;
- ☒ The Defendant is charged with an offense that involves a minor victim; or involves the possession or use of a firearm (including by not limited to Felon in Possession), destructive device, or any other dangerous weapon; or involves a failure to register under Title 18, United States Code, Section 2250;

☐ A serious risk exists that the Defendant will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate or attempt to threaten, injure, or intimidate a prospective witness or juror;

☐ A serious risk exists that the accused will flee;

Accordingly, the Government moves for detention without bond and requests a three-day continuance of the hearing on this matter.

II. SEC. 3142(d): TEN-DAY CONTINUANCE

The defendant may flee or poses a danger to the community or to any other person, and:

☐ At the time the offense was committed the Defendant was on release pending trial for a felony offense;

☐ At the time the offense was committed the Defendant was on release pending imposition of sentence, appeal of sentence, or completion of sentence for any offense;

☐ At the time the offense was committed the Defendant was on probation or parole for any offense;

☐ The Defendant is not a United States citizen or not admitted lawfully for permanent residence,

The Government moves for detention and requests a ten-day continuance of the hearing on this matter.

WHEREFORE, PREMISES CONSIDERED, no condition or conditions will reasonably assure the appearance of Defendant as required and the safety of the community, and pursuant to 18 U.S.C. § 3142(f), the Government requests that the Court detain Defendant without bond pending trial, and asks for a hearing on this matter.

Respectfully submitted,

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/s/
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UNITED STATES MAGISTRATE COURT

WESTERN DISTRICT OF TEXAS

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UNITED STATES OF AMERICA,

Plaintiff,

v.

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Defendant.

Criminal No.

SA 18 CR 07 22 OG

ORDER

On this date the Court considered the Government's Motion to Detain Defendant, and the Court having reviewed said motion enters the following Orders:

IT IS HEREBY ORDERED that the Defendant be temporarily detained pending a hearing on the Government's Motion and until further Order of the Court, pursuant to 18 USC 3142(f).

IT IS FURTHER ORDERED that Defendant's bond hearing is set for _____ at _____ a.m. / p.m.

SIGNED AND ENTERED on: _____

UNITED STATES MAGISTRATE JUDGE